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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,239	08/05/2003	Mark Buchanan	DKT02025A (0267.00060)	6399
7590 07/26/2004				
BorgWarner, Inc. Powertrain Technical Center Suite 100 3800 Automation Avenue Auburn Hills, MI 48326		EXAMINER LEWIS, TISHA D		
		ART UNIT 3681		
		PAPER NUMBER		
DATE MAILED: 07/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/634,239

Applicant(s)

BUCHANAN ET AL.

Examiner

TISHA D. LEWIS

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The following is a first action on the merits of application serial no. 10/634,239 filed on August 5, 2003.

#### ***Information Disclosure Statement***

The information disclosure statement filed on November 10, 2003 has been acknowledged.

#### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it is currently over 150 words. Correction is required. See MPEP § 608.01(b).

#### ***Claim Objections***

Claims 1, 2 and 5 are objected to because of the following informalities:

-In claim 1, lines 15 and 23, --desired-- should be inserted between "the" and "clutch".

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-In claim 1, line 18, --engine-- should be inserted between "target" and "speed" and ---profile-- should be inserted after "speed".

-In claim 2, line 7, "from" should be deleted between "the" and "initial".

-In claim 2, line 8, "speed" should be changed to --acceleration-- (as introduced in claim 1, vehicle acceleration).

-In claim 5, lines 9, 27 and 39, --desired-- should be inserted between "the" and "clutch".

-In claim 5, line 20, after "torque output", --of the transmission-- should be inserted.

-In claim 5, line 20, "from" should be deleted between "the" and "initial".

-In claim 5, line 30, --engine-- should be inserted between "target" and "speed" and ---profile-- should be inserted after "speed".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the torque" in line 1. There is insufficient antecedent basis for this limitation in the claim.

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Claim 1 recites the limitation "the driven member" in lines 5 and 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the torque output" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the synchronizer" in lines 17 and 18. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the pressure" in line 26 (before first clutch). There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the pressure" in line 5 (before second clutch). There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the torque" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the engine throttle and the vehicle speed" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the driven member" in lines 8 and 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the clutch torque" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the pressure" in line 16 (before first clutch). There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the pressure" in line 5 (before second clutch). There is insufficient antecedent basis for this limitation in the claim.

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Claim 5 recites the limitation "the torque output" in line 20. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the synchronizer" in line 29 (before initial gear and final gear). There is insufficient antecedent basis for this limitation in the claim.

### ***Allowable Subject Matter***

Claims 1-5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

### **FACSIMILE TRANSMISSION**

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 872-9326 before final and 703-872-9327 after final**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
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Typed or printed name of person signing this certificate:

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by

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the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Mack ('867), Buchanan et al ('597), Mitchell et al ('067), Hubbard et al ('213), Matsuno et al ('476), Reuschel ('212), Sakamoto et al ('296), and Brown et al ('418) are cited as having methods for controlling torque of at least two clutches.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 703-305-0921. The examiner can normally be reached on M-Thur 8 AM TO 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should


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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tdl  
July 22, 2004

  
TISHA LEWIS  
PRIMARY EXAMINER  
Au 3681 7/22/04